

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

Writ Petition No. 713 (S/S) of 2004

Daya Krishan Joshi S/o Sri Mathura Dutt Joshi
R/o Jail Camp Sampurna Nand Civir Water Tank M.B.R. Block,
P.O. Lalar Khas Via Kichha -----Petitioner

Versus

1. State of Uttaranchal through Secretary Nagar Vikas/ Pay Jal, Dehradun
2. General Manager Kumaon Jal Sansthan, Nainital
3. Executive Engineer Kumaon Jal Sansthan, Udham Singh Nagar

-----Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri B.S. Khanka, learned counsel for the petitioner and Sri. J.P. Joshi, learned counsel for the respondents.

By means of this writ petition, the petitioner has prayed for a direction to the respondents to regularize the services of the petitioner on the post of Electrician/Pump Operator. This prayer of the petitioner cannot be granted by this Court in view of the judgment passed by the Hon'ble Apex Court in the case of State of Karnataka Vs. Uma Devi & Ors., 2006 (4) 1 SCC. The second prayer is for fixing the seniority of the petitioner on the post of Electrician/Pump Operator cadre. Until or unless the petitioner is appointed or regularized on the post of Electrician/Pump Operator cadre, the second prayer cannot be granted. The third prayer is regarding consequential benefits. This prayer also cannot be granted by the Court at present.

In fact, the stand of the petitioner is that he was initially appointed on daily wage basis on the post of Electrician/Pump

Operator in the year 1985 and later on he was regularized on the post of Beldar/Chowkidar in the year 1997. Thereafter, vide order dated 8th August, 2000 passed by Executive Engineer, Kumaon Jal Sansthan, petitioner was again directed to perform the duty of technical work also for which he was granted Rs.75/- per month as a special allowance.

The submission of the petitioner is that in the seniority list issued by the respondent, one Sri Bhuwan Chandra, who was placed at serial no. 13 in the seniority list, his regularization order has been modified by the respondents and he has been regularized on the post of Pump Attendant vide order dated 28.08.2004 passed by the General Manager, Kumaon Jal Sansthan, whereas the petitioner, who is more qualified than Sri Bhuwan Chandra and was placed at serial no. 2 in the seniority list, has not been regularized on the post of Pump Attendant.

The respondents have filed counter affidavit. In the counter affidavit, it is submitted that at the time of regularization, no post of Pump Attendant was sanctioned by the Government. From perusal of Annexure 2 filed along with rejoinder affidavit, it is clear that in the year 1997, 5 posts of Junior Fitter, 16 posts of Pump Attendant and 115 posts of Chowkidar/Beldar were sanctioned by the Government.

Learned counsel for the petitioner has submitted that petitioner has made a number of representations, however, the respondents are not paying any heed to his representations. One of the representations filed by the petitioner on 13.08.2003 is Annexure 8 to the writ petition.

In the circumstances, I deem it fit and proper to direct the respondent no. 2 to take decision on the representation of the petitioner dated 13.08.2003 by speaking order within a period of six weeks from the date of production of a certified copy of this order before him.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

06.08.2007

VKS